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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/637,894	04/25/1996	GEORGE TASH	P-2127-40	5079

7590                    03/27/2002

LYON, HARR & DEFRAK  
300 ESPLANADA DRIVE  
SUITE 800  
OXNARD, CA 93030

[REDACTED] EXAMINER

FETSUGA, ROBERT M

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

3751

DATE MAILED: 03/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.  
**08/637,894**

Applicant(s)

Tash

Examiner

Robert M. Fetsuga

Art Unit

3751



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1)  Responsive to communication(s) filed on Feb 19, 2002.
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4)  Claim(s) 1-4 and 6-17 is/are pending in the application.
- 4a) Of the above, claim(s) none is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-4 and 9-17 is/are rejected.
- 7)  Claim(s) 6-8 is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on Apr 25, 1996 is/are objected to by the Examiner.
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.
- 12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15)  Notice of References Cited (PTO-892)      18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      19)  Notice of Informal Patent Application (PTO-152)
- 17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_      20)  Other: \_\_\_\_\_

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1. The drawings are objected to because cross-hatching is inaccurate as to material in Fig. 3 and reference numeral "54" (pg. 9 ln. 27) is missing from Fig. 5. Correction is required.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "integral" handle set forth in claim 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Applicant argues at page 2 of the response filed February 19, 2002 proposed changes are provided therewith. However, it appears only "formal drawings" were properly filed.

Applicant is required to submit a proposed drawing correction in response to this Office Action. Any proposal by the applicant for amendment of the drawings to cure defects must consist of two parts:

- a) A separate letter to the Draftsman in accordance with MPEP § 608.02(r); and
- b) A print or pen-and-ink sketch showing changes in red ink in accordance with MPEP § 608.02(v).

IMPORTANT NOTE: The filing of new formal drawings to correct the noted defect may be deferred until the application is allowed by the examiner, but the print or pen-and-ink sketch with

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proposed corrections shown in red ink is required in response to this Office Action, and *may not be deferred*.

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 C.F.R. § 1.75(d)(1) and M.P.E.P. § 608.01(o). Correction of the following is required: Proper antecedent basis for the subject matter set forth in claims 15-17 could not be found in the specification. Applicant argues at page 3 of the response such antecedent basis can be found in certain noted sections. The examiner has again reviewed the specification, including the noted sections, but the language of claims 15-17 was not found therein.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 and 10-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cheiten and Gross.

The Cheiten reference discloses a plunger comprising: a handle 20; and a pleated bellows 12,14,15. Re claims 2-4, 12 and 15, the choice of material and manufacturing method would appear obvious choices to be made. Re claim 17, the choice of an "integral" handle would appear an obvious choice to be made. Therefore, Cheiten teaches all claimed elements except for the provision of ring seals.

Although the Cheiten plunger does not include ring seals, as claimed, attention is directed to the Gross reference which discloses an analogous plunger which further includes ring seals 36-38. Therefore, in consideration of Gross, it would have been obvious to one of ordinary skill in the art to associate ring seals with the Cheiten plunger in order to facilitate drain engagement.

Applicant argues at pages 4-7 of the response the claimed invention includes three sealing rings to efficiently seal against a drain hole. Moreover, applicant argues the Gross disclosure does not teach sealing rings of different dimensions, nor the advantages of the claimed invention. The examiner can

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not agree. The Gross plunger includes three sealing rings 36-38 of progressively smaller dimensions (note Fig. 3) which are effective to efficiently seal against a drain hole (col. 2 lns. 56-67). This teaching in Gross appears at least equivalent to the disclosed "advantages" found at page 9, lines 3-9, of the instant specification.

5. Claims 1-4 and 9-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cheiten and Gross as applied to claims 1-4 and 10-17 above, and further in view of Tash.

Re claim 9, although the pleats of the Cheiten plunger may not be more flexible than the ring seals, as claimed, attention is directed to the Tash reference which discloses an analogous plunger which further includes pleats 26 that are more flexible (thin walled) than ring seals 38,42. Therefore, in consideration of Tash, it would have been obvious to one of ordinary skill in the art to associate increased flexibility with the Cheiten pleats in order to facilitate drain unblocking. Re claims 2-4, 12, 15 and 17, Tash also teaches the recited features associated with a plunger.

X 6. Claims 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

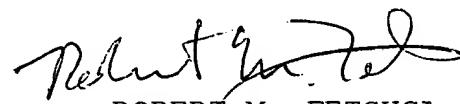
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7. The grounds of rejection have been reconsidered in light of applicant's arguments, and are still deemed to be proper.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number (703) 308-1506.



ROBERT M. FETSUGA  
PRIMARY EXAMINER  
ART UNIT 3751

rmf  
March 27, 2002